

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CEDRIC R. ALLEN,

CV F 05 0145 AWI SMS P

Plaintiff,

v.

ORDER FINDING SERVICE OF COMPLAINT
APPROPRIATE AND FORWARDING
DOCUMENTS TO PLAINTIFF

LT.R. HERNANDEZ,

Defendants.

Cedric R. Allen ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the instant action on February 2, 2005 naming Lt. R. Hernandez, R. Pruneda, and Beer as Defendant. Plaintiff is seeking compensatory and punitive damages.

The Court has screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A and finds that it states cognizable claims for relief under 42 U.S.C. § 1983 against Defendants Hernandez, Pruneda and Beer for excessive force in violation of the Eighth Amendment. Fed. R. Civ. P. 8(a); Swierkiewicz v. Sorema N. A., 534 U.S. 506, 512-15 (2002); Austin v. Terhune, 367 F.3d 1167, 1171 (9th Cir. 2004); Jackson v. Carey, 353 F.3d 750, 754 (9th Cir. 2003); Galbraith v. County of Santa Clara, 307 F.3d 1119, 1125-26 (9th Cir. 2002). Accordingly, IT IS HEREBY ORDERED that:

1. Service is appropriate for the following defendants:

C/O R. HERNANDEZ

C/O R. PRUNEDA

SGT. R. BEER

2. The Clerk of the Court shall send Plaintiff THREE USM-285 forms, THREE summons, a Notice of Submission of Documents form, an instruction sheet and a copy of the complaint filed February 2, 2005.
3. Within THIRTY (30) DAYS from the date of this Order, Plaintiff shall complete the attached Notice of Submission of Documents and submit the completed Notice to the Court with the following documents:
 - a. Completed summons;
 - b. One completed USM-285 form for each defendant listed above; and
 - c. FOUR copies of the endorsed complaint filed February 2, 2005.
4. Plaintiff need not attempt service on Defendants and need not request waiver of service. Upon receipt of the above-described documents, the court will direct the United States Marshal to serve the above-named Defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.
5. The failure to comply with this Order will result in a Recommendation that this action be dismissed.

IT IS SO ORDERED.

Dated: May 22, 2006
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/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE